

# ARIZONA RACING COMMISSION

SPECIAL TELEPHONIC MEETING

MONDAY, MAY 23, 2011

## MINUTES OF SPECIAL TELEPHONIC MEETING

A public meeting of the Arizona Racing Commission was convened on Monday, May 23, 2011, beginning at 10:02 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

### **Present – Members Present:**

<b>Chair</b>	<b>Erin Owens</b>
<b>Commissioner</b>	<b>Jay McClintock</b>

### **Members present telephonically:**

<b>Vice Chair</b>	<b>Mel McDonald</b>
<b>Commissioner</b>	<b>Burton S. Kruglick</b>
<b>Commissioner</b>	<b>Thomas Kelly</b>

### **Others present telephonically:**

Jeff Wasowicz, President of Yavapai Downs Board of Directors  
Kevin Keighron, Vice-President of Yavapai Downs Board of Directors  
Phil Bybee, Secretary/Treasure of Yavapai Downs Board of Directors  
Rod Cordes, Member of Yavapai Downs Board of Directors  
Laurie Boaz, Member of Yavapai Downs Board of Directors  
Renee Wood, Comptroller, Yavapai County Farm and Agriculture Association  
Alex Vakula, Legal counsel for Yavapai Downs Board of Directors  
Liz Monty, Veriti Consulting  
Jay Taylor, Veriti Consulting  
Joanne Dodder-Nellar, the Daily Courier

**Also Present:** Lonny T. Powell - ADOR Director, Mary D. Williams-Assistant Attorney General and Kim McCollum- Commission Secretary

**A. Call to Order – Chair Owens** called the Special Telephonic Meeting of the Arizona Racing Commission to order at 10:02 a.m. **Commissioner McDonald** stated he was aware of the issue and crisis that Yavapai was facing but if the meeting was still going at 10:45 a.m. he needed to end his participation. **Chair Owens** encouraged **Commissioner McDonald** to ask any questions and to inform the Commission if and when he ended his participation.

The following matters were discussed, considered and decided at the meeting:

### **B. New Business**

- 1. Status of Yavapai Downs 2011 Race Meet – Director Powell** stated the reason for this special meeting was for the Commission and members attending to get a direct update and clarity from the Board members of Yavapai in terms of Yavapai's plans for opening on Saturday, May 28, 2011, as stated in their permit and as advertised. The meeting was facilitated due to a call between members of the Yavapai Board and the Department on Thursday, May 19, 2011, where the board advised that they had made a decision, due to financial issues, to not open. The following morning, Friday, May 20, 2011, the Board notified the Department that the Board voted to ask for a stay of their decision and requested that they now be given at least 24 hours to figure out if they would be able to open. At the May 11<sup>th</sup> Commission Meeting, Yavapai's representative told the Commission that there would be no issue with opening this year's meet but there were concerns about the 2012 meet. The impact of not running would be felt in jobs, businesses, and the economy. **Chair Owens** asked **Mr. Wasowicz** if he was prepared to speak in reference to **Director Powell's** comments and the status of Yavapai's future. **Mr. Wasowicz** replied that Yavapai thought a recent decision by the tax assessor's office to change Yavapai's tax status from \$30,000 to \$349,000 was going to be reversed and the money refunded to the Board. The reversal delayed, dragged on and caused a cascading effect which resulted in some tracks not wanting to carry Yavapai's signal. When outsiders looked at Yavapai's financial situation, which was somewhat precarious with the extra burden of the taxes, they came to the conclusion that Yavapai could not operate, so other tracks started changing the way they did business with Yavapai. This change caused Yavapai's revenue projection to continue to degrade over time and that was their financial status. The tax assessment triggered it all. Yavapai had several ideas in the works for coming up with a long term solution but Yavapai would not be able to open on Saturday, May 28<sup>th</sup>. Yavapai requested the Commission to grant a one week delay in the start of Yavapai's meet allowing time for Yavapai to see which of the ideas surfacing had potential. **Director Powell** stated if the Yavapai Board wanted to delay the race meet by one week, they would need to amend their racing permit for those dates, get something in writing to the

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Department immediately, and another Commission meeting would need to be scheduled because the Commission would need to approve the amendment of the permit changing their race dates by one week. **Chair Owens** encouraged the Yavapai Board to have something more viable or somewhat of a strategy because the Commission was not hearing anything. In order to make a sound decision, specifically on the request, the Commission would need to understand the Board's future plans. **Director Powell** stated that there was a chance that the OTB network would go dark for a week, with no wagering, unless something was proposed either by or before the follow-up meeting. By delaying the opening for a week the consequences could be dire. **Chair Owens** encouraged the Yavapai Board to look for resolutions. The ripple effect of this decision was tragic for the industry and the state. **Chair Owens** encouraged the Board to look very hard and long to find some type of resolution because there were several participants looking for ways to support Yavapai, the community, as well as the industry in this state. **Chair Owens** asked Commissioners if they had specific questions to ask of the Board. **Director Powell** stated that **Bill Walsh, OTB Coordinator**, informed him that Yavapai could request to move some of their dark days to the week that they would not be running which would allow them to have dark day simulcast, providing the Commission approved their amendment. The request for amendment should include the dark day request and state that the days would be deducted from their total dark day allotment. **Chair Owens** polled other Commissioners for questions or comments that they may have for the Yavapai Board. **Commissioner McDonald** no questions or comments. **Commissioner Kruglick** no questions or comments. **Commissioner Kelly** no questions or comments. **Commissioner McClintock** no questions or comments. **Chair Owens** asked **Mr. Wasowicz and the Yavapai Board Members** how much money was needed to start the meet and if they could outline the specific debt. **Mr. Wasowicz** replied that he could outline the specific debt but more importantly the crux of the problem was the uncertainty of the revenue side of the equation. They were uncertain because some out-of-state off track sites would not take Yavapai's signal, the state of the economy was hurting racing revenues, and they didn't know what affect the EH-1 virus would have on Yavapai's ability to recruit and maintain horses. **Mr. Wasowicz** stated that they had a good handle on accounts payable and they would prefer to provide it in writing than speak to it so nothing would go unaccounted for. **Chair Owens** stated that the herpes virus may be a threat and it was causing some problems but she was inclined to disregard the comment as a true revenue threat. Historical business practices seemed to be the crux of Yavapai's issues. **Mr. Wasowicz** stated that the Board could not accept money from anyone unless there was a reasonable expectation to pay it back and if money was accepted without showing how it could be paid back then it could be fraud. **Director Powell** expressed the importance of clarity going forward unless in order to avoid a self-fulfilling prophecy and Yavapai would never get off the ground. **Alex Vakula, legal counsel**, stated that one of the issues they were hoping to square away was the tax issue and they were expecting a letter from the tax assessor's office which would decree the tax bill less than \$100,000 and refund \$90,000. **Chair Owens** stated that a call to the public was not on the agenda but that she was going to allow members in the audience to speak. **Chair Owens** requested members to keep their comments concise, on this specific issue and free from finger pointing. **The following members of the audience voiced concerns and possible solutions in reference to the future of Yavapai.**

- **Gary Miller, HBPA President,**
- **Ralph Fales, Arizona Quarter Race Association**
- **Debbie Ferguson, HBPA Board Member,**
- **Steve Orlando**

**Chair Owens** stated that some very good points were brought up by members of the industry with respect to Memorial Day Weekend and the need for clarity on Yavapai's future. **Mr. Wasowicz** stated that the Board would like nothing better than to run Memorial Day weekend and they had a good idea of what it would take financially to get there. **Mr. Wasowicz** stated that they would be working the rest of the day with the horsemen to see if they could pull it off and they would turn in an amended request if necessary. At best case, they would run the weekend on some reduced days perhaps but would still try to open on the weekend. **Chair Owens** stated that there would be a meeting on Wednesday with the expectation that the Yavapai Board would provide the Commission with a decision on Yavapai's future. **Chair Owens** further expressed concern for the ripple effect on the industry as a whole not just today at Yavapai but in the fall when the meet transferred down to Turf Paradise and the effect on the people at Yavapai with little to no opportunity for them to move. **Chair Owens** stated that she was hoping that the Yavapai Board would dig deep and on Wednesday have a clearer picture that had a positive light to it. **Mr. Wasowicz** asked what time Wednesday's meeting would be held. **Chair Owens** replied that the time couldn't be determined as it would be based on the availability of the Commissioners and the Department of Racing and would be provided as soon as possible.

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## Announcements

The next regular Commission meeting will be held **Wednesday, June 08, 2011, at 10:00 a.m.** in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

## Adjournment

**Commissioner McClintock** moved to adjourn the meeting. **Commissioner Kelly** seconded the motion. **All in Favor**  
This public meeting adjourned at 10:37 a.m.

Dated this 6<sup>th</sup> day of June, 2011

Arizona Racing Commission

By Kim McCollum  
Kim McCollum, Commission Secretary